

MRS. DANIEL M. FAIREX.

FEBRUARY 2, 1897.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCK, from the Committee on War Claims, submitted the following  
REPORT.

[To accompany House Res. No. 519.]

The Committee on War Claims, to whom was referred the bill (H. R. 10151) for the relief of Mrs. Daniel M. Fairex, administratrix of Daniel Fairex, deceased, submit the following report:

That this claim was referred to the Court of Claims for a finding of facts under the terms of the Bowman Act by the Committee on War Claims on May 2, 1884. The court, on a preliminary inquiry, found that Daniel Fairex (since deceased), the person alleged to have been the owner of the property, was loyal to the Government of the United States throughout said war.

The case was dismissed for want of jurisdiction. The decision of the court is as follows:

This case being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that Daniel Fairex (since deceased), the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

The case having been brought to a hearing on the 10th day of December, 1888, on a motion by defendants to dismiss for want of jurisdiction, the court, upon the record and after considering the briefs and arguments of counsel on both sides, finds that the claim is for the use and occupation of certain real estate in New Orleans, La., by the forces of the United States Army under General Butler from the time said city was captured and taken possession of by said forces in April, 1862, to the close of the war of the rebellion, and that said use was in the operations of said military forces while occupying said territory as aforesaid.

And the court decides as a conclusion of law that it is without jurisdiction by reason of the provision of the third section of the Bowman Act (act of March 3, 1883), ch. 22, ch. 116 (22 Stat. L., p. 485), which enacts "that the jurisdiction of said court (of claims) shall not extend to or include any claim against the United States \* \* \* for the use and occupation of real estate by any part of the military or naval forces of the United States in the operation of said forces during said war (of the rebellion) at the seat of war." The motion is allowed, and the claimant's case and petition is dismissed for want of jurisdiction.

BY THE COURT.

If the claimant has a just claim it ought to be paid, and there is no reason why the proper facilities should not be afforded her to establish its validity, and your committee report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the terms of the act approved March 3, 1887, and generally known as the Tucker Act, and recommend its passage.